

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LORI G. SCHWAGER, :

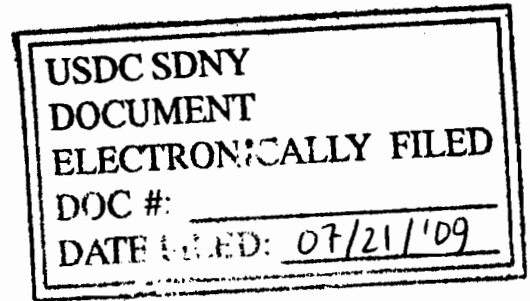
Plaintiff, :

- against - :

CALANTONE MONTERISI & CO., LLC, :

Defendant. :

- - - - -x



ORDER

08 Civ. 10533 (DC)


CHIN, District Judge

The Court is in receipt of a letters from plaintiff's counsel dated June 18, 2009 and counsel for non-party George Kellner dated July 9, 2009. Plaintiff seeks to compel Kellner, as executor of the estate of Robert G. Schwager, to comply with a subpoena seeking Dr. Schwager's business records.

Upon review of the letters, it is hereby ordered as follows: There being no objection, the executor shall produce responsive, non-privileged documents in response to the subpoena. The only dispute is over who shall bear the cost of production. Given that the estate is not a party to the action, it should not be required to bear the expense of discovery. Accordingly, plaintiff shall bear the cost of production, including reasonable attorneys' fees.

SO ORDERED.

Dated: New York, New York
July 20, 2009


DENNY CHIN
United States District Judge